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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

L-2

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FILE: [REDACTED]
MSC 01 328 60590

Office: NATIONAL BENEFITS CENTER

Date: AUG 21 2006

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-Represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits Center. The director certified the matter to the Administrative Appeals Office (AAO) for review. The decision will be affirmed.

The director concluded that the applicant had not established that she filed a written claim for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. Therefore, the director denied the application.

The applicant did not file a brief or other evidence with the AAO during the 33 days following the date of the director's August 29, 2005 denial.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese, vacated sub nom. Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993)(CSS), *League of United Latin American Citizens v. INS, vacated sub nom. Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993)(LULAC), or *Zambrano v. INS, vacated sub nom. Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993)(Zambrano). See 8 C.F.R. § 245a.10.

The regulations at 8 C.F.R. § 245a.14 provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for class membership before October 1, 2000. Those regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14(g). Where the submitted document is not in strict compliance with the regulations in that it does not include an A-number, such evidence will be evaluated as a "relevant document" under 8 C.F.R. § 245a.14(g). See *Matter of E-M-*, 20 I&N Dec. 77, 81 (Comm. 1989)(where the Commissioner determined that when an applicant for original legalization submits a supporting document which is not in full compliance with the regulation specific to that document, the document should be considered as a "relevant document" under 8 C.F.R. § 245a.2(d)(3)(iv)(L).)

The record includes the following documents which potentially relate to a timely, written request for class membership:

1. The Form for Determination of Class Membership in *CSS v. Meese* which is neither dated nor signed.
2. The Form I-687, Application for Status as a Temporary Resident, which is signed by the applicant and does not include a complete date, but is instead dated simply 1992.
3. A Form I-797C, Notice of Action, which indicates that on April 19, 2001 the Service received the applicant's application for employment authorization which she filed based on the claim that she had applied for legalization class membership.

On August 24, 2001, the applicant submitted this Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act.

On October 29, 2001, the director issued a notice of intent to deny (NOID) in which he stated that the applicant had failed to establish that she had submitted a timely, written application for class membership in one of the requisite legalization class-action lawsuits. In the NOID, the director did not evaluate any of the evidence which the applicant provided relating to a timely, written application for class membership.

In response to the NOID, the applicant submitted a statement which indicated that she attempted to file for legalization during the initial filing period and that she applied for class membership during 1987 and 1988.

On September 9, 2002, the director denied the application for the reasons set out in the NOID. In the denial, the director again did not specify what he found lacking in the applicant's evidence.

On appeal from the September 9, 2002 decision, the applicant provided a statement which indicated that she tried to apply for legalization during the original filing period, but was turned away, and she attempted to file for class membership during 1993, but was again turned away.

The September 9, 2002 notice of decision was withdrawn. The AAO remanded the matter to the Director, National Benefits Center, instructing that office to provide the applicant a notice of decision which identified any deficiencies in the evidence and which documented the director's efforts to check Service records for evidence that the applicant applied for class membership such that the applicant might be able to provide a meaningful appeal. *See* 8 C.F.R. § 245a.20(a)(2).

On August 29, 2005, the director denied the application and certified his decision to the AAO. In the decision, he identified deficiencies in the applicant's evidence and specified that all Service records and indices indicated that, prior to October 1, 2000, the applicant had not filed any documents with the Service that pertained to the original legalization program or to LIFE legalization.

A copy of the Form for Determination of Class Membership in *CSS v. Meese* may serve as evidence that an alien applied for class membership provided that the alien demonstrates that the form was submitted to the Service prior to October 1, 2000 in conjunction with a class membership application. *See* 8 C.F.R. § 245a.14(c). In this case, the applicant indicated on appeal that she never filed the Form for Determination of Class Membership in *CSS v. Meese* with the Service. Rather, in 1993 when she attempted to apply for class membership, the immigration officer explained that the legalization class-action suits were still pending in the courts and, as such, the Service could not receive her application for class membership at that time. Thus, the applicant acknowledged that she did not file this form in conjunction with a timely, application for class membership. Thus, the Form for Determination of Class Membership does not provide probative evidence regarding the applicant's claim that she filed a timely, written application for class membership.

The Form I-687 may be furnished in an effort to establish that an alien filed a timely, written claim for class membership. However, it is only the Form I-687 filed in conjunction with a timely, class membership application which supports such a claim. *See* 8 C.F.R. § 245a.14(d)(6). The applicant

indicated on appeal that when she attempted to file the Form I-687 during 1993 in conjunction with a class membership application, she was turned away by the Service. Thus, the applicant acknowledged that she did not file the Form I-687 with the Service prior to October 1, 2000. Thus, the Form I-687 does not provide probative evidence regarding the applicant's claim that she filed a timely, written application for class membership.

Finally, an application for employment authorization may serve as evidence that an alien submitted a timely, class membership application provided that the application was filed pursuant to a court order granting legalization class members interim relief. *See* 8 C.F.R. § 245a.14(d)(e). In this case, the record shows that the applicant submitted this application for employment authorization based on her own claim that she had applied for class membership, but the Service denied the request as it had no evidence that the applicant was a class member. Thus, the Form I-797C, Notice of Action, which indicates that the applicant submitted an application for employment authorization in which she claimed class membership does not provide probative evidence regarding the applicant's claim that she filed a timely, written application for class membership.

The applicant has failed to submit documentation which establishes that she filed a timely, written claim for class membership in one of the requisite legalization class-action lawsuits. The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Given her failure to document that she filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

ORDER: The director's decision dated August 29, 2005 is affirmed. The application is denied.